

Pl. 1

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11 CORPORATION dba AMTRAK and JOE DEELY

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK, JOE DEELY,
and DOES 1-15, inclusive,

Defendants.

Case No. C05-05434 MJJ

**DECLARATION OF CARA CHING-
SENAHA IN SUPPORT OF
DEFENDANTS' NATIONAL
RAILROAD PASSENGER
CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

[Notice of Motion, Memorandum of Points
and Authorities, and Declarations in
Support of Motion concurrently filed]

Date: May 8, 2007

Time: 9:30 a.m.

Courtroom: 11

Floor: 19

Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05

FAC Filed: 2/23/06

Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

I, Cara Ching-Senaha, declare on the basis of personal knowledge:

1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

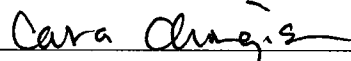
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18 
19 CARA CHING-SENAHA

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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JOHN EARL CAMPBELL,

Plaintiff,

vs.

No. C05-05434 MJJ

NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK, JOE
DEELY and DOES 1 through 15
inclusive,

Defendants.

CERTIFIED COPY

JG Jane GROSSMAN
RS REPORTING Services

DEPOSITION OF JOHN EARL CAMPBELL

February 26, 2007

Taken by SHARON TRUJILLO

CSR No. 6120

JANE GROSSMAN REPORTING SERVICES
1939 Harrison Street, Suite 460
Oakland, California 94612
510.444.4500

DEPOSITION OF JOHN EARL CAMPBELL

1 A. No. 12:02:55

2 Q. And as a member of that union, you were able
3 to file a grievance if you ever felt that you were being
4 treated unfairly, correct?

5 A. Yes. 12:03:04

6 Q. Did you ever file any grievances while you
7 were at Southern Pacific?

8 A. No.

9 Q. Did you ever feel that you were treated
10 unfairly while you worked at Southern Pacific? 12:03:10

11 A. No.

12 Q. Do you have any understanding, sir, as to why
13 Southern Pacific wanted you to leave your job as a
14 condition of the settlement agreement?

15 A. They wasn't sure my back was 100 percent
16 well. 12:03:30

17 Q. That was your understanding?

18 A. Yes.

19 Q. Did you have any other understanding?

20 A. No. 12:03:46

21 Q. What were your duties at Southern Pacific?

22 A. Track laborer.

23 Q. What does that mean?

24 A. Basically, hard manual labor.

25 Q. And when you say "track," meaning on the 12:04:02

1 Tracks? 12:04:04
2 A. Yes.
3 Q. Could you give me maybe a paragraph as to what
4 you would do on a daily basis?
5 A. If something derailed, track laborers would be 12:04:11
6 one of the ones that fixed it. We repaired any damage
7 to the track. Replace ties. Replace rail. Basically,
8 hard, grinding work.
9 Q. Heavy lifting?
10 A. Exactly. 12:04:30
11 Q. Did you use machinery as well?
12 A. Yes.
13 Q. What type of machinery did you use?
14 A. Backhoe. Tamper. End loaders. Dump truck.
15 Tie handlers. Scaffolder. Spike -- spike -- there's 12:04:40
16 numerous. I could -- I can't think of nothing else, but
17 it's numerous machines.
18 Q. Okay. How long did you work at Southern
19 Pacific?
20 A. Eight years. 12:05:03
21 Q. While you were there, sir, had you ever been
22 subjected to discipline?
23 A. No.
24 Q. Okay.
25 MS. MAYLIN: What I'd like to do is mark as 12:05:16

1 Q. What position did you apply for? 12:09:06

2 A. Assistant conductor.

3 Q. Okay. And did you eventually interview for
4 the position?

5 A. Yes. 12:09:22

6 Q. Okay. Who did you interview with?

7 A. Denise Sargeant, Tom Oughton, and Dan Johnson.

8 Q. And I understand you were hired?

9 A. Yes.

10 Q. Okay. What was your starting salary, sir? 12:09:43

11 A. Nine thirty an hour.

12 Q. And did you join the union at that time?

13 A. After 90 days, yes.

14 Q. Which union did you join?

15 A. The UTU. 12:09:59

16 Q. And what was your -- I'm sorry. What were
17 your job duties as an assistant conductor?

18 A. Basically, I help passengers on and off the
19 train, take tickets, make sure of the safe operation of
20 the train I was assigned to. 12:10:21

21 Q. No hand labor I take it?

22 A. No.

23 Q. And, sir, you mentioned safe operation of the
24 trains. Did you have a -- a handbook or a guideline
25 that you had to follow as far as safety regulations? 12:10:41

1 A Yes. 12:10:44

2 Q Okay. How many booklets or handbooks did you
3 have, do you recall?

4 A Five.

5 Q Do you recall the names of those books? 12:10:53

6 A I -- ATM (sic) -- AMT, Amtrak Safety Book.

7 Union Pacific Special Instruction, Union Pacific

8 Timetable, BNSF Special Instruction, BNSF Timetable.

9 Q Okay. And it was your job to understand the
10 safety rules in those five books? 12:11:20

11 A Correct.

12 Q Okay. All right. Let's see, here. So when
13 was it that you were initially hired, sir?

14 A September of '98.

15 Q Okay. How long did you remain in the position 12:11:36
16 of assistant conductor?

17 A One year.

18 Q So to September '99?

19 A Yes.

20 Q Who was your supervisor at that time? 12:11:46

21 A Tom Oughton and Mark Schulthies.

22 Q I'm sorry?

23 A Mark Schulthies.

24 Q What were their positions, if you know?

25 A One was road foreman of engines. I don't know 12:12:07

1 at that site? 12:16:30

2 A. The boss of the crew, not of the yard.

3 Q. Got it. Got it. Okay. All right. And did
4 you get that position, Mr. Campbell?

5 A. The first time, no. 12:16:39

6 Q. Did you have an understanding as to why you
7 didn't get that position?

8 A. Someone with more seniority bidded on it.

9 Q. Okay. So you didn't have a problem with that,
10 did you? 12:16:54

11 A. No. Seniority based, no problem.

12 Q. Okay. All right. And when -- did you
13 continue after that, then, working the extra boards?

14 A. No. I became the assistant yard conductor
15 after that. 12:17:09

16 Q. How did you acquire that job?

17 A. I bidded on it.

18 Q. Okay. Can you give me a month and year?

19 A. Not -- I can't narrow it down to exact -- but
20 it was 1999, thereabouts. 12:17:30

21 Q. Okay. Who was your supervisor then?

22 A. I think it's still Oughton, Schulthies.

23 Q. Okay. What was your shift?

24 A. First part it was the swing shift, which is
25 4 p.m. to 2 a.m. 12:17:53

1 Q. Okay. 12:17:58

2 A. And several months later I got the 10 p.m. to
3 6 a.m. midnight yard.

4 Q. Okay. Did your pay change when you got that
5 position? 12:18:11

6 A. No.

7 Q. Okay. So you were still making nine thirty an
8 hour?

9 A. No. Nine thirty an hour is for class when
10 they're training us. After 90 days it went up to like 12:18:22
11 17 bucks.

12 Q. Oh. Okay. All right. So the same pay,
13 though, for an assistant yard conductor as an assistant
14 conductor?

15 A. An assistant conductor on the road make a 12:18:35
16 little more than a yard conductor. The -- the hourly
17 rate is the same, but we get other things, like being
18 away from home for more than three or four hours. Stuff
19 like that. Little things that makes it more. The yard
20 conductor is just a flat hourly rate. 12:18:56

21 Q. Okay. All right. Okay. So in '99, you're
22 the assistant yard conductor. You have the same
23 supervisors. Did your job change after that time?

24 A. I became a yard conductor maybe a year later,
25 2000. 12:19:23

1 Q. Okay. Prior to -- so you put a bid on a yard 12:19:31
2 conductor job?

3 A. Exactly.

4 Q. Okay. Prior to that time in 2000 -- by the --
5 oh, before I ask that, do you recall the month in 2000? 12:19:40

6 A. No. I do not.

7 Q. Okay. Prior to putting a bid on a yard
8 conductor job, though, in 2000, had you bid on any other
9 jobs, or applied for any other jobs, other than what
10 you've testified to? 12:19:55

11 A. I applied for the train engineer's job.

12 Q. Okay. And when did you do that?

13 A. October of '98.

14 Q. How are you sure about the date, sir?

15 A. Because I only been there a month, and my 12:20:11
16 supervisor, Mark Schulthies, saw me moving the
17 locomotive around the yard, and he was just surprised I
18 was -- I just got hired, and he didn't know I knew how
19 to do that, so he gave me an application for a train
20 engineer. 12:20:29

21 Q. And that was in October '98?

22 A. Uh-huh.

23 Q. That's a yes?

24 A. Yes.

25 Q. And, sir, was it within proper Amtrak protocol 12:20:35

1 AFTERNOON SESSION 1:27 P.M. 12:30:56

2

3 EXAMINATION BY MS. MAYLIN (Resumed)

4

5 THE VIDEOGRAPHER: We are back on the record. 01:27:18

6 It is 1:27.

7 MS. MAYLIN: Okay. What I marked here as
8 Exhibit 2 is a -- let's see, one, two -- four-page
9 document, Bates-stamped D10282 through 285.
10 (Whereupon, Defendants' Exhibit No. 2 was marked for identification.) 01:27:43

11
12 MS. MAYLIN: O. There you go, Mr. Campbell.
13 Mr. Campbell, this appears to be your application for
14 employment with Amtrak, is that correct?

15 A. Yes. 01:27:52

16 Q. Okay. And that is your signature at the
17 bottom of the first page?

18 A. Yes.

19 MS. PRICE: Counsel, before we go on,
20 Mr. Campbell has two items of information he needs to 01:28:01
21 clarify.

22 Go ahead.

23 THE WITNESS: My job insurance only lasted a
24 year, not two years. And the second year I cashed in my
25 401K and my savings, so that's -- so that's -- that -- 01:28:16